

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL J. REDENBURG, ESQ.,

Plaintiff,

-v-

MIDVALE INDEMNITY COMPANY,

Defendant.

20 Civ. 5818 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On July 27, 2020, defendant removed this case to federal court, invoking the Court's diversity jurisdiction. Dkt. 1. On July 29, 2020, plaintiff moved to remand the case to New York Supreme Court, New York County. Dkt. 9. The same day, the Court set a briefing schedule for the motion to remand. Dkt. 10. On August 3, 2020, defendant moved to dismiss the complaint. Dkts. 11–13. On August 4, 2020, plaintiff filed a letter asking that the motion to dismiss to be denied without prejudice as premature or, in the alternative, held in abeyance pending resolution of the motion to remand. Dkt. 15. Defendant opposes this request and asks that the two motions be briefed in tandem. Dkt. 16. The Court resolves this dispute as follows.

Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course. Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by August 25, 2020. No further opportunities to amend will ordinarily be granted. If plaintiff chooses not to file an amended complaint, plaintiff shall file an opposition to the motion to dismiss by August 25, 2020. Defendants' reply, if any, shall be filed by September 1, 2020.

If plaintiff does amend the complaint, defendant shall thereafter have 21 days, until September 15, 2020, to: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that it relies on the previously filed motion to dismiss. If defendant files a new motion to dismiss or relies on its previous motion, plaintiff's opposition will be due 14 days thereafter, and defendants' reply, if any, will be due seven days after that.

At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to:

EngelmayerNYSDChambers@nysd.uscourts.gov.

It is further ORDERED that the briefing schedule for plaintiff's motion to remand, Dkt. 10, is vacated. Briefing shall instead proceed as follows. If plaintiff chooses to file an amended complaint, plaintiff may also choose to file an amended motion to remand. Such a motion is due by August 25, 2020. Whether or not plaintiff files an amended motion to remand, defendant's opposition to the motion to remand, if any, is due by September 8, 2020. Plaintiff's reply, if any, is due by September 15, 2020.

It is further ORDERED that the initial pretrial conference, currently scheduled for September 9, 2020, is adjourned *sine die*.

SO ORDERED.

Dated: August 4, 2020
New York, New York



PAUL A. ENGELMAYER
United States District Judge